

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
Western Division**

Drewes Farm Partnership,)	
Plaintiff,)	
v.)	Case No. 3:19-cv-00434-JZ
City of Toledo, Ohio,)	
Defendant,)	
and)	
Lake Erie Ecosystem, an ecosystem)	
including living and nonliving components,)	
in a surface and underground watershed,)	
and)	
Toledoans for Safe Water, Inc., an Ohio)	
nonprofit corporation.)	
Intervenors-Defendants.)	

* * * * *

MOTION FOR LEAVE TO INTERVENE
OF LAKE ERIE ECOSYSTEM AND TOLEDOANS FOR SAFE WATER, INC.

Pursuant to FRCP 24(a), Intervenors-Defendants (“Intervenors”) Lake Erie Ecosystem (“Lake Erie”) and Toledoans for Safe Water, Inc. (“TSW”), by and through their undersigned counsel, respectfully move this Court for leave to intervene as of right. In the alternative, these moving Intervenors request leave to permissively intervene pursuant to FRCP 24(b).

Intervention should be granted for the following reasons:

1) Plaintiff Drewes Farms Partnership (“Drewes”) filed the instant action on February 27,

2019, seeking to nullify Defendant City of Toledo, Ohio's Lake Erie Bill of Rights Charter Amendment.

2) The City of Toledo ("City") is an Ohio municipality which owns and operates the exclusive water treatment and distribution utility within the City and in multiple suburban areas.

3) The City water utility draws its water from the Lake Erie Ecosystem. The Ecosystem is part of an interstate and international watershed subject to an array of polluting events causing multiple water quality issues which degrade and destroy the viability of water and economic sustainability of the region. The Ecosystem derives standing from its existence and claims rights to exist, flourish and naturally evolve, as recognized in a recent initiated amendment to the Charter of the City of Toledo entitled "The Lake Erie Bill of Rights" ("LEBOR").

4) The City water utility has no other good source of water and will suffer real and substantial harm if the Lake Erie Bill of Rights is invalidated and residents of the City of Toledo are deprived of a vital means of protecting the Lake Erie Ecosystem.

5) Toledoans for Safe Water ("TSW") is a nonprofit corporation organized under the laws of Ohio to protect Lake Erie Ecosystem's and people's rights under LEBOR existence.

6) Markie Miller, Bryan Twitchell and John Michael Durback all are officers or board members of TSW, and have filed declarations in this proceeding setting forth their interests as residents of the City of Toledo connected to the City of Toledo water supply.

7) LEBOR recognizes and protects the right of residents of the City of Toledo to a clean and healthy environment, which shall include the right to a clean and healthy Lake Erie and Lake Erie Ecosystem.

8) TSW, as an unincorporated association and later as a nonprofit corporation has been

the primary advocate for LEBOR through its members. Its board members, officers and membership, along with other City of Toledo residents who support TSW's mission, will suffer real and substantial harm if LEBOR is invalidated and the citizens of Toledo are left without LEBOR's remedies to challenge acts that affect the ability of the Lake Erie Ecosystem to flourish and naturally evolve.

9) If LEBOR is invalidated, the Lake Erie Ecosystem will lose the rights to exist, flourish and naturally revolve, and will suffer the harms prevented by LEBOR's recognition.

10) The City of Toledo does not adequately represent the Intervenor's interests because the City's interests could change; the City must weigh multiple interests; Lake Erie Ecosystem is a separate entity; and the rights protected by the LEBOR are rights held by the Lake as well as the inhabitants of the City and not the City itself.

For the reasons set forth above, and argued in the accompanying memorandum of support, Intervenor respectfully request that the Court grant their intervention as of right or, in the alternative, as a permissive intervention. Pursuant to F.R.C.P. 24(c), The Intervenor has proffered a proposed Motion to Dismiss the Complaint with this Motion to Intervene and are prepared to file a proposed Answer if necessary.

Respectfully submitted,

March 18, 2019

/s/ Terry J. Lodge
Terry J. Lodge (S.Ct. #0029271)
316 N. Michigan St., Suite 520
Toledo, OH 43604-5627
Phone (419) 205-7084
tjlodge50@yahoo.com
lodgelaw@yahoo.com

/s/ Lindsey Schromen-Wawrin

Lindsey Schromen-Wawrin (WSBA #46352)

Shearwater Law PLLC

306 West Third Street

Port Angeles, WA 98362

Phone (360) 406-4321 Fax (360) 752-5767

lindsey@ShearwaterLaw.com

*Attorneys for Intervenor-Defendants Lake Erie
Ecosystem and Toledoans for Safe Water, Inc.*